GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

UNSTARRED QUESTION NO:2599
ANSWERED ON:07.03.2003
POLICY ON PATENTS
AKHILESH SINGH

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) the policy of the Government to get Indian products patented;

(b) the number of Indian products got patented by America till now;

(c) the reasons for getting the products patented by America prior to India;

(d) the future action/strategy of the Government in view of America`s policy to grab the Indian products and get them patented;

(e) whether any action has been taken in this regard so far; and

(f) if so, the details thereof?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (SHRI CH. VIDYASAGAR RAO)

(a) to (f): Patents are obtained by inventors in countries of their choice to prevent unauthorized exploitation of their inventions by others. All countries, including India, provide a legal and administrative framework to facilitate inventors in securing patents for their inventions which fulfil the criteria of patentability as per the patents law. Since patents are granted under the sovereign prerogative of countries according to their respective patent laws and have territorial effect, they are effective only in the country of grant.

In order to qualify for grant of patent in any country the invention, whether process or product, has to meet the criteria of patentability, namely, novelty, inventiveness and industrial applicability. Indian processes and products, which are already in public knowledge, cannot be patented either by governments or by any other person. Data on patented products indicating country of origin is not maintained.

As and when information is received about patents being obtained on certain items which are not considered patentable and which affect Indian interests, steps are taken to assess whether the grant of such patent can be challenged under the patent laws of the country concerned. Earlier a patent granted in the United States of America on the use of turmeric in wound healing was successfully challenged and was also cancelled by the Patent Office of the country concerned. Similarly, a patent on the fungicidal property of neem, granted in Europe, was successfully challenged. The claims of the patent on Basmati Ricelines and grains granted in the United States of America which had the potential of affecting India`s commercial interest were also challenged. The said claims were subsequently cancelled by the United States Patent and Trademark Office and the title of the patent was also amended. A patent is normally challenged by the person(s) whose interests are affected/jeopardised.